

Message Text

CONFIDENTIAL

PAGE 01 EC BRU 00447 171845Z

ACTION OES-06

INFO OCT-01 EUR-12 ISO-00 AID-05 CEA-01 CIAE-00 COME-00

EB-07 FRB-03 INR-07 NSAE-00 CIEP-01 SP-02 STR-04

TRSE-00 LAB-04 SIL-01 OMB-01 L-03 DLOS-06 AGRE-00

SAL-01 INT-05 CG-00 DOTE-00 /070 W

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FM USMISSION EC BRUSSELS

TO SECSTATE WASHDC 2783

INFO ALL EC CAPS 2985

C O N F I D E N T I A L 0447

E. O. 11652: GDS

TAGS: EFIS, PLOS, EC

SUBJECT: US-EC FISHERY NEGOTIATIONS

REFS: (A) STATE 7517; (B) EC BRUSSELS 350

1. DCM INFORMED EC COMMISSION DEPUTY DIRECTOR GENERAL FOR EXTERNAL AFFAIRS GALLAGHER OF PRINCIPAL APPLICABLE POINTS IN REF A IMMEDIATELY UPON ITS RECEIPT; MORE DETAILED PRESENTATION MADE LATER TO COMMISSION LEGAL COUNSEL HARDY. IN BOTH CASES, IT WAS STRESSED THAT TWO REF MESSAGES HAD CROSSED AND THAT MISSION IS AWAITING RESPONSE TO GALLAGHER SUGGESTIONS REPORTED REF B.

2. RE CORPORAL PUNISHMENT. HARDY TOOK NOTE OF DEPARTMENT'S SUGGESTIONS PARA 2 REF A BUT HOPED GALLAGHER'S PROPOSAL TO AMBASSADOR THAT ARTICLE X BE DROPPED (PER REF B) WOULD BE ACCEPTABLE. HE NOTED THAT FRANCE OBJECTS TO BOTH PARAGRAPHS IN THAT ARTICLE BECAUSE THE FIRST EXPLICITLY AFFIRMS THE RIGHT OF THE US TO IMPOSE PENALTIES ON FOREIGN FISHING BOATS UNDER US LAWS AND HE SECOND REFERS TO THE POSSIBLE "ARREST" OF A VESSEL AND THE "RELEASE" OF VESSEL AND CREW WHICH THE
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 EC BRU 00447 171845Z

FRENCH BELIEVE CARRIES THE IMPLICATION OF "IMPRISONMENT" OF FISHERMAN. WHILE HARDY HOPES THE FRENCH MAY BE BROUGHT AROUND TO ACCEPT LANGUAGE PROPOSED BY THE US FOR THE GIFA IN THE PREAMBLE AND/OR ARTICLE I AND II ACKNOWLEDGING US LAW IN REGARD TO FISHING IN ITS MANAGEMENT ZONE, HE BELIEVES THAT IF THEY DID, THEY WOULD WISH TO AVOID SPECIFIC LANGUAGE IN OTHER SECTIONS

OF THE GIFA WHICH LDC STATES MAY SEEK TO HAVE INCORPORATED IN THEIR AGREEMENTS WITH EC. HARDY SAID THE FRENCH ARE WILLING TO FOREGO THE ADVANTAGES OF ARTICLE X REGARDING PROMPT RELEASE OF FISHERMEN IN ORDER TO AVOID DRAWING ATTENTION TO THE POSSIBILITY OF THEIR DETENTION IN THE FIRST PLACE.

3. IN A SEPARATE CONVERSATION, FRANCIS LOTT, THE FRENCH PERMDEL OFFICER RESPONSIBLE FOR FISHING AND LAW OF THE SEA MATTERS, TOLD A MISSION OFFICER THAT FRANCE COULD NOT ACCEPT IN THE GIFA THE EXTENSION OF US LAW OVER FISHING BY FOREIGN STATES TO THE EXCLUSION OF EXISTING AND EMERGING INTERNATIONAL LAW. IN ADDITION TO SETTING AN UNDESIRABLE PRECEDENT IN POSSIBLE FUTURE FISHING AGREEMENTS WITH LDC STATES, SUCH ACCEPTANCE, HE SAID, WOULD GREATLY UPSET EFFORTS BY THE DEVELOPED STATES (INCLUDING THE US) IN UN LAW OF THE SEAS CONFERENCE TO RESIST MOVES BY THE LDCS AND OTHERS TO EXTEND NATIONAL LAWS TO THE EXCLUSION OF INTERNATIONAL LAW OVER THE 200 MILE ECONOMIC ZONES AND OVER OTHER LOS MATTERS. WHILE FRANCE AND OTHER EUROPEAN STATES ARE VERY ANXIOUS TO BE ABLE TO CONTINUE THEIR TRADITIONAL FISHING ACTIVITIES OFF THE US, THE PRICE THE US IS ASKING FRANCE TO PAY IN RESPECT TO OVERALL LOS MATTERS MAY BE TOO HIGH. WHEN MISSION OFFICER POINTED OUT THAT THE PRECEDENT LOTT REFERRED TO HAD ALREADY BEEN ESTABLISHED BY PASSAGE OF THE 1976 US FISHERY MANAGEMENT ACT AND ITS ACCEPTANCE
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 EC BRU 00447 171845Z

IN GIFAS BY SEVERAL FOREIGN STATES, INCLUDING THE USSR, LOTT NOTED THIS MERELY MADE IT MORE IMPORTANT FOR THE EC MEMBERS AND OTHER STATES (E.G., JAPAN) TO MAINTAIN THEIR OPPOSITION AND PRESERVE AN IMPORTANT LOS PRINCIPLE. COMMENT: DESPITE ABOVE, GALLAGHER REMAINS CONFIDENT HE CAN PERSUADE MEMBER STATES TO ACCEPT COMPROMISE ALONG LINES SUGGESTED REF B.
END COMMENT.

4. HARDY HOPED THE LANGUAGE PROPOSED IN PARA 3 REFTEL COULD BE SOMEWHAT AMPLIFIED TO EXTEND THE CONCEPT OF "IN-DEPTH CONSULTATIONS" WHILE SATISFYING THE US OBJECTION TO THE CONCEPT OF "ARBITRATION." HE AND GALLAGHER WOULD BRING PROPOSED TEXT TO WASHINGTON.

5. HARDY SAID THE EC IS PERFECTLY CLEAR THAT THE GIFA IS NON-RECIPROCAL AS STATED PARA 5 REFTEL.

6. HARDY NOTED THAT REGISTRATION PERMIT APPLICATIONS HAD BEEN SUBMITTED FOR THE FRG AND IRELAND AND SUBSEQUENTLY FOR FRANCE ON US FORMS FOR FISHING VESSEL IDENTIFICATION AND APPLICATION FOR VESSEL PERMITS PROVIDED TO THE EC BY THE MISSION. HE ASKED WHETHER THESE COULD NOT NOW BE CONSIDERED AS APPLICATIONS FOR FISHING PERMITS UNDER A POSSIBLE GIFA AND WHETHER THE EC SHOULD ASK ITALY TO RESUBMIT ITS APPLICATIONS ON PROPER FORMS.

7. SINCE GALLAGHER VIEWS ON AMERICAN SALMON ISSUE AND QUESTION OF "TRADITIONAL" EUROPEAN FISHERIES HAD BEEN REPORTED REF B, MATTER WAS NOT FURTHER DISCUSSED.

CONFIDENTIAL

CONFIDENTIAL

PAGE 04 EC BRU 00447 171845Z

8. COMMENT: MISSION BELIEVES THAT THE STRONG FRENCH OPPOSITION TO CONCLUSION OF A US-EC GIFA UNDER PRESENT TERMS REPORTED PARA 3 ABOVE MAKES IT EVEN MORE IMPORTANT THAT THE DEPARTMENT AGREE TO RECEIVE GALLAGHER AND HARDY AT A HIGH-LEVEL AS PROPOSED REF B IN AN EFFORT TO REACH A SATISFACTORY AGREEMENT CONSISTENT WITH US LAW. IT MAY TURN OUT THAT FRENCH REFUSAL TO ACCEPT US LAW IN THIS MATTER AND ACQUIESCENCE BY OTHER MEMBER STATES IN THIS POSITION MAY PREVENT CONCLUSION OF A GIFA WITH THE EC, BUT WE WANT THE RECORD TO BE PERFECTLY CLEAR THAT IT WAS NOT BECAUSE THE US DID NOT TRY.

9. ACTION REQUESTED: (A) WOULD APPRECIATE RESPONSE TO GALLAGHER PROPOSALS REF B. (B) AS REQUESTED BY HARDY PARA 6 ABOVE, PLEASE ADVISE WHETHER EC COMMISSION SHOULD SOLICIT NEW FISHING PERMIT APPLICATIONS ON PROPER GIFA FORMS FROM ITALY AND WHETHER PRESENT APPLICATIONS FROM FRANCE, IRELAND, AND FRG ARE ADEQUATE. HINTON

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